

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Arthur R. Halbritter et al. Examiner: Michelle Linh-Giang Le
Serial No.: 09/689,842 Group Art Unit: 626
Filed: October 13, 2000 Docket: 100.020US1
Title: SYSTEM, METHOD, AND ARTICLE OF MANUFACTURE FOR
LOCATING AND COMMUNICATING WITH A PATRON AT A HOSPITALITY
FACILITY

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant respectfully requests review of the final rejection in the above-identified application. No amendments are submitted with this request. This request is being filed with a Notice of Appeal and a Request for Extension of Time.

Summary

Applicant submits that the Examiner has omitted one or more essential elements needed for *prima facie* rejections under 35 U.S.C. §103. In particular, there is no teaching or suggestion to combine the cited references. The discussion below addresses each of these points.

§103 Rejection of the Claims

Claims 1-16, 30-45, 54-57 and 71-78 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lans¹ in view of Chuang.²

DISCUSSION OF CLAIM 1-16

The Examiner rejected claim 1 based on Lans in view of Chaung. Lans teaches a system for tracking locations of movable objects, such as airplanes, boats, trains, etc. Lans primarily describes how its movable “stations” can be deployed in aircraft for assisting pilots in monitoring air traffic.³ Each station determines its own position using GPS⁴ (global positioning

¹ US Patent 5,506,587 to Hakan Lans; herein referred to as Lans.

² US Patent 5,987,421 to Cliff L. Chaung; herein referred to as Chaung.

³ Lans at column 8, lines 27 *et seq.* and Figure 1.

⁴ The movable stations may use GPS alternatives, such as GLONASS. See *Id.* at column 1, lines 20-25.

system) and broadcasts its position and identity over a radio channel.⁵ Each station receives the broadcasts of other stations and stores the positions and identities of the other stations.⁶ Additionally, each station shows the locations of other stations superimposed on a map,⁷ and monitors the locations to warn pilots about potential collisions.⁸

The Examiner admits that Lans does not teach claim 1's:

receiving, from another of the plurality of client terminals,
a request for the location of the particular patron.

The Examiner tries to fill this void by asserting that one of ordinary skill would modify Lans' stations based on Chuang. Chuang's system enables guests to find each other in an amusement park.⁹ Chuang's system includes wireless devices and beacons.¹⁰ If a guest wants to find a friend in a park, the guest uses his wireless device to ask the system to locate the friend's wireless device.¹¹ The system uses the beacons to detect signals emanating from the friend's device and relays the friend's device location back to the guest.

The Examiner states:

It would have been obvious to add these features to the Lans teaching with the motivation of allowing park visitors to search for the location, distance and direction of other group members within a hospitality facility.¹²

The Examiner's motivation for modifying Lans is illogical. If one of ordinary skill wanted "a system that allowed park visitors to search for the location, distance and direction of other group members," one need not modify Lans. Instead, one could use Chuang without modification. The Examiner even points-out that Chuang's abstract describes such a system.¹³ As a result, Applicant submits the Examiner used impermissible hindsight and Applicants own specification to contrive a motivation for modifying Lans in view of Chuang.

⁵ See Lans at column 4, lines 7-34.

⁶ See Lans at column 4, lines 17-18 and column 9, lines 15-25.

⁷ See Lans. at column 4, lines 35-37 and column 7, lines 28-31.

⁸ See Lans. at column 4, lines 37-40.

⁹ See Chuang at Abstract.

¹⁰ See Chuang at column 11, lines 47-66.

¹¹ *Id.*

¹² Final Office Action at page 3.

¹³ See Final Office Action at page 3.

Applicant also submits that Lans itself teaches away from the Examiner's modification.¹⁴ As noted above, the Examiner asserts that one would modify Lans to include claim 1's "receiving from another of the plurality of client terminals, a request for the location of the particular patron." According to Lans, there is no need for stations to receive location requests from other stations. Lans' stations each store a list enumerating the locations of all other stations.¹⁵ Thus, if another station's location is needed, Lans' station is designed to look in its own memory store for the other station's location.¹⁶ Therefore, Lans itself teaches away from the Examiner's reason for modifying Lans.

Additionally, Applicant submits that modifying Lans per the Examiner's reasoning would render it unfit for its intended purpose. According to Lans, "one advantageous feature" is that Lans' stations can detect potential aircraft collisions.¹⁷ As noted above, each station stores the location and identify of all other stations. If another station (e.g., an airplane) is too close, Lans' station notifies the flight crew. If Lans' stations were modified to receive requests for location information of other stations, the stations would have difficulty preventing collisions. If modified, each station would have to request location information from all known stations, instead of receiving it over a broadcast channel. If a station were unaware of other stations, the station would not request locations from those unknown stations, creating a collision risk. As such, the Examiner's reason for modifying Lans would eliminate one of its key features.

Claims 2-16 depend on claim 1, so Applicant submits they are allowable for the reasons noted above.

CLAIMS 30-45, 54-57 AND 71-78

The Examiner rejected claims 30-45, 54-57, and 71-78 for the same reasons he rejected claims 1-16. Therefore, Applicant submits these claims are allowable for the reasons given above.

¹⁴ MPEP §2145 states, "It is improper to combine references where the references teach away from their combination. *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983)."

¹⁵ See Lans at column 4, lines 17-18 and column 9, lines 15-25.

¹⁶ See Lans at column 4, lines 17-18 and column 9, lines 15-25.

¹⁷ See Lans at column 4, lines 37-38.

CONCLUSION

Applicant respectfully requests review of the final rejection in the above-identified application, as the Examiner has omitted one or more essential elements needed for a *prima facie* rejection. The Examiner is invited to telephone Applicant's attorney at 281-758-0025 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-3998.

Respectfully submitted,

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Date 02/21/2008

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This paper or fee is being filed on the date indicated above using the USPTO's electronic filing system EFS-Web, and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.